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In re Application : **OFFICE OF PETITIONS**
Jochmus, et al. :
Application No. 09/980,064 : PATENT TERM ADJUSTMENT
Filed: March 27, 2002 :
Dkt. No.: 50125/037001 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed November 1, 2004. This request is being treated under 37 CFR 1.704(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 183 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A review of the application history reveals the Office errantly entered March 11, 2004 as the date a reply to the restriction required was filed rather than May 8, 2003, the date the response initially received as indicated on the copy of the stamped and dated postcard evidencing receipt of the response by the Office.

Thus, an adjustment of 185 days under 37 CFR 1.702(a)(2) of 185 days can be attributed to the Office. In accordance with 37 CFR 1.703(a)(2), the adjustment began September 9, 2003, the day after the date that is four months after the date a reply under § 1.111 was filed, and ended March 12, 2004, the date of mailing of non-final Office action.

The adjustment of 185 days, however, is reduced two days under 37 CFR 1.704(b) for applicants failure to engage in reasonable efforts to conclude prosecution. The reduction began July 13, 2004, the day after the date that is three months after the date

of mailing of non-final Office action, and ended June 14, 2004, the date of receipt of applicants' response.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 183 days as argued by applicants.

Applicants submitted \$400.00 in connection with this matter, however, the fee for an application for patent term adjustment is currently \$200.00. Applicant may request a refund in writing of the excess \$200.00 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation